



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1322

Introduced 2/5/2013, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

See Index

Amends the Sexually Dangerous Persons Act. Provides that the examination to determine whether a person is sexually dangerous shall be conducted by 2 qualified evaluators (rather than 2 qualified psychiatrists). Defines "qualified evaluator" and "examination". Provides that "criminal propensities to the commission of sex offenses" means that it is substantially probable that the person subject to the commitment proceeding will engage in the commission of sex offenses in the future if not confined. Provides that the cost of representation by counsel for an indigent respondent shall be paid by the county in which the proceeding is brought. Provides that the socio-psychiatric report shall be prepared by an evaluator approved by the Sex Offender Management Board (rather than by a social worker and psychologist under the supervision of a licensed psychiatrist assigned to the institution where the applicant is confined). Provides that if a person has previously filed an application in writing showing that the sexually dangerous person or criminal sexual psychopathic person has recovered and the court determined at a hearing or following a jury trial that the applicant is still a sexually dangerous person, or if the application is withdrawn, no additional application may be filed for 2 years (rather than one year) after a finding that the person is still sexually dangerous or after the application is withdrawn, except if the application is accompanied by a statement from the treatment provider that the applicant has made exceptional progress and the application contains facts upon which a court could find that the condition of the person had so changed that a hearing is warranted. Effective immediately.

LRB098 02612 MRW 32617 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Sexually Dangerous Persons Act is amended by
5 changing Sections 4, 4.01, 4.02, 5, and 9 and by adding
6 Sections 4.04 and 4.05 as follows:

7 (725 ILCS 205/4) (from Ch. 38, par. 105-4)

8 Sec. 4. After the filing of the petition, the court shall
9 appoint two qualified evaluators ~~psychiatrists~~ to make a
10 personal examination of the ~~such~~ alleged sexually dangerous
11 person, to ascertain whether the ~~such~~ person is sexually
12 dangerous, and the evaluators ~~psychiatrists~~ shall file with the
13 court a report in writing of the result of their examination, a
14 copy of which shall be delivered to the respondent.

15 (Source: Laws 1955, p. 1144.)

16 (725 ILCS 205/4.01) (from Ch. 38, par. 105-4.01)

17 Sec. 4.01. "Qualified evaluator ~~psychiatrist~~" means a
18 reputable physician or psychologist licensed in Illinois or any
19 other state to practice medicine or psychology, or any other
20 licensed professional who specializes in the evaluation of sex
21 offenders ~~in all its branches, who has specialized in the~~
22 ~~diagnosis and treatment of mental and nervous disorders for a~~

1 ~~period of not less than 5 years.~~

2 (Source: Laws 1959, p. 1685.)

3 (725 ILCS 205/4.02) (from Ch. 38, par. 105-4.02)

4 Sec. 4.02. In counties of less than 500,000 inhabitants the
5 cost of the ~~psychiatric~~ examination required by Section 4 is a
6 charge against and shall be paid out of the general fund of the
7 county in which the proceeding is brought.

8 (Source: Laws 1959, p. 1685.)

9 (725 ILCS 205/4.04 new)

10 Sec. 4.04. Examination. "Examination" means an examination
11 conducted by a qualified evaluator conducted in conformance
12 with the standards developed under the Sex Offender Management
13 Board Act and by an evaluator approved by the Sex Offender
14 Management Board.

15 (725 ILCS 205/4.05 new)

16 Sec. 4.05. Criminal propensities to the commission of sex
17 offenses. For the purposes of this Act, "criminal propensities
18 to the commission of sex offenses" means that it is
19 substantially probable that the person subject to the
20 commitment proceeding will engage in the commission of sex
21 offenses in the future if not confined.

22 (725 ILCS 205/5) (from Ch. 38, par. 105-5)

1 Sec. 5. The respondent in any proceedings under this Act
2 shall have the right to demand a trial by jury and to be
3 represented by counsel. The cost of representation by counsel
4 for an indigent respondent shall be paid by the county in which
5 the proceeding is brought. At the hearing on the petition it
6 shall be competent to introduce evidence of the commission by
7 the respondent of any number of crimes together with whatever
8 punishments, if any, were inflicted.

9 (Source: Laws 1955, p. 1144.)

10 (725 ILCS 205/9) (from Ch. 38, par. 105-9)

11 Sec. 9. Recovery; examination and hearing.

12 (a) An application in writing setting forth facts showing
13 that the ~~such~~ sexually dangerous person or criminal sexual
14 psychopathic person has recovered may be filed before the
15 committing court. Upon receipt thereof, the clerk of the court
16 shall cause a copy of the application to be sent to the
17 Director of the Department of Corrections. The Director shall
18 then cause to be prepared and sent to the court a
19 socio-psychiatric report concerning the applicant. The report
20 shall be prepared by an evaluator approved by the Sex Offender
21 Management Board ~~a social worker and psychologist under the~~
22 ~~supervision of a licensed psychiatrist assigned to the~~
23 ~~institution wherein such applicant is confined.~~ The court shall
24 set a date for the hearing upon the ~~such~~ application and shall
25 consider the report so prepared under the direction of the

1 Director of the Department of Corrections and any other
2 relevant information submitted by or on behalf of the ~~such~~
3 applicant.

4 (b) At a hearing under this Section, the Attorney General
5 or State's Attorney who filed the original application shall
6 represent the State. The sexually dangerous person or the State
7 may elect to have the hearing before a jury. The State has the
8 burden of proving by clear and convincing evidence that the
9 applicant is still a sexually dangerous person.

10 (c) If the applicant refuses to speak to, communicate with,
11 or otherwise fails to cooperate with the State's examiner, the
12 applicant may only introduce evidence and testimony from any
13 expert or professional person who is retained to conduct an
14 examination based upon review of the records and may not
15 introduce evidence resulting from an examination of the person.
16 Notwithstanding the provisions of Section 10 of the Mental
17 Health and Developmental Disabilities Confidentiality Act, all
18 evaluations conducted under this Act and all Illinois
19 Department of Corrections treatment records shall be
20 admissible at all proceedings held under this Act.

21 (d) If a person has previously filed an application in
22 writing setting forth facts showing that the sexually dangerous
23 person or criminal sexual psychopathic person has recovered and
24 the court determined either at a hearing or following a jury
25 trial that the applicant is still a sexually dangerous person,
26 or if the application is withdrawn, no additional application

1 may be filed for 2 years ~~one year~~ after a finding that the
2 person is still sexually dangerous or after the application is
3 withdrawn, except if the application is accompanied by a
4 statement from the treatment provider that the applicant has
5 made exceptional progress and the application contains facts
6 upon which a court could find that the condition of the person
7 had so changed that a hearing is warranted.

8 (e) If the person is found to be no longer dangerous, the
9 court shall order that he or she be discharged. If the court
10 finds that the person appears no longer to be dangerous but
11 that it is impossible to determine with certainty under
12 conditions of institutional care that the ~~such~~ person has fully
13 recovered, the court shall enter an order permitting the ~~such~~
14 person to go at large subject to the ~~such~~ conditions and ~~such~~
15 supervision by the Director as in the opinion of the court will
16 adequately protect the public. In the event the person violates
17 any of the conditions of the ~~such~~ order, the court shall revoke
18 the ~~such~~ conditional release and recommit the person under
19 ~~pursuant to~~ Section 5-6-4 of the Unified Code of Corrections
20 under the terms of the original commitment. Upon an order of
21 discharge every outstanding information and indictment, the
22 basis of which was the reason for the present detention, shall
23 be quashed.

24 (Source: P.A. 94-404, eff. 1-1-06.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3	725 ILCS 205/4	from Ch. 38, par. 105-4
4	725 ILCS 205/4.01	from Ch. 38, par. 105-4.01
5	725 ILCS 205/4.02	from Ch. 38, par. 105-4.02
6	725 ILCS 205/4.04 new	
7	725 ILCS 205/4.05 new	
8	725 ILCS 205/5	from Ch. 38, par. 105-5
9	725 ILCS 205/9	from Ch. 38, par. 105-9